

MISSOURI COURT OF APPEALS  
WESTERN DISTRICT

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**COMPLETE TITLE OF CASE**

MISSOURI REAL ESTATE APPRAISERS COMMISSION,

Respondent,

v.

MARK FUNK,

Appellant.

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**DOCKET NUMBER WD71027**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** January 12, 2010

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**Appeal from**

The Circuit Court of Cole County, Missouri  
The Honorable Patricia S. Joyce, Judge

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**APPELLATE JUDGES**

Division Three: James Edward Welsh, P.J., and James M. Smart, Jr. and Mark D. Pfeiffer, JJ.

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**ATTORNEYS**

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Clinton, MO

Attorney for Appellant.

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# MISSOURI APPELLATE COURT OPINION SUMMARY

## MISSOURI COURT OF APPEALS, WESTERN DISTRICT

MISSOURI REAL ESTATE )  
APPRAISERS COMMISSION, )  
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Respondent, )  
v. )  
 )  
MARK FUNK, )  
 )  
Appellant. )

WD71027

Cole County

Before Division Three Judges: Welsh, P.J., and Smart and Pfeiffer, JJ.

We examined this case to determine whether the Administrative Hearing Commission (AHC) had sufficient evidence to award Mark Funk (Funk) his general real estate appraiser's certification. In awarding Funk certification, the AHC overturned the decision of the Missouri Real Estate Appraisers Commission (MREAC) denying Funk certification. The MREAC appealed to the Circuit Court of Cole County (trial court), and the trial court reversed the decision of the AHC. Funk appealed the trial court's judgment. However, because we review the decision of the AHC and not the trial court, the MREAC is charged with writing the appellant's brief and, to prevail in this court, must demonstrate that the AHC's decision was erroneous. In their single point on appeal, the MREAC argued that the decision of the AHC to grant Funk general real estate appraiser's certification was not supported by substantial evidence.

### **JUDGMENT OF TRIAL COURT REVERSED; AHC AWARD REINSTATED.**

#### **Division Three holds:**

The MREAC's sole basis for denying Funk certification was that his submitted appraisals did not sufficiently conform to the Uniform Standards of Professional Appraisal Practice (USPAP). The AHC found that Funk's appraisals, particularly appraisals he completed after his certification was denied, did meet those standards. In its sole point on appeal, the MREAC maintains that the AHC's decision was not supported by competent and substantial evidence, because Funk provided no expert other than himself to testify that his appraisals met USPAP standards. However, it is clear from the AHC decision that the AHC examined and relied upon Funk's significant background in the appraisal profession to determine that he had an adequate foundation as an expert witness to testify whether the 2007 appraisals conformed to the USPAP and thereby demonstrated knowledge and competence. While the fact that Funk had an interest in the outcome of the hearing does go to his testimonial credibility, it does not disqualify him from testifying or render his testimony

meaningless. It was up to the AHC to assess Funk's credibility. The AHC believed him. In light of the entire record, the decision of the AHC was founded on substantial and competent evidence. Consequently, we reverse the trial court's judgment and reinstate the AHC's award of Funk's general real estate appraisal certification.

**Opinion by: Mark D. Pfeiffer, Judge**

January 12, 2010

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